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Mr. Dennis Hebert
Director
Governor's Energy Office
State House
Concord, New Hampshire 03301

Dear Mr. Hebert:

You have inquired about the effective date of RSA 124:13-a and whether or not it is to be applied retroactively. Specifically, you have asked whether energy overcharge funds which had been allocated to specific programs prior to the effective date of RSA 124:13-a must have legislative approval for those allocations. It is our opinion that those energy overcharge funds which have been allocated to specific programs prior to the effective date of RSA 124:13-a need not be approved by the legislature.

RSA 124:13-a provides:

Disbursement of Energy Overcharge Funds. Energy overcharge funds disbursed by the Federal Department of Energy to the state shall be subject to the same department and agency planning requirements as federal block grants under this subdivision. No such energy overcharge funds shall be expended until specifically appropriated by the general court. The state agency responsible for planning for the distribution of federal fuel assistance block grants shall be responsible for submitting plans under RSA 124:13-a for expenditure of any energy overcharge funds.

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RSA 124:13-a became effective July 25, 1987. Generally, statutes are intended to speak from the time they go into effect unless otherwise indicated. In other words, statutes apply only prospectively. See Norton v. Patten, 125 N.H. 413 (1984); State v. Theodosopoulos, 123 N.H. 287 (1983). Thus, absent a clear expression of legislative intent, a statute will not be construed as applying retrospectively. Because there is no express legislative intent in RSA 124:13-a that it is to be applied retrospectively, it is our view that it operates prospectively only.

Further support for this view is contained in the legislative history of RSA 124:13-a. In testimony before a sub-committee of the House Committee on Executive Departments and Administration, Representative Dinsmore, a sponsor of Senate Bill 148, the bill which became RSA 124:13-a, stated:

As you will learn today, all the major settlements so far handed down to New Hampshire have been submitted to the Department of Energy, and some programs have already been approved by them. For those funds, this legislation has no impact. However, there are cases now under litigation and rumors of other cases still to be filed. In the event that those result in more funds to be allocated to the state, then the procedures established by this legislation will be brought into play. (Emphasis added.)

Testimony on Senate Bill 148, House Committee on Executive Departments and Administration, March 25, 1987.

In the course of deliberations on a bill, legislators look to the sponsor in charge of a bill to be particularly well informed about its purpose, meaning and intended effect. Consequently, statements made by a bill's sponsor in the course of deliberations are taken into consideration in construing a statute. See Sutherland Stat Const §48.15 (4th. Ed).

In light of the above, it is our view that RSA 124:13-a, applies only to those energy overcharge funds which are received by the state after July 25, 1987. Those funds which were received by the state and allocated to certain programs by the Governor's Energy Office prior to that date are not affected by this legislation.

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I trust that this has been responsive to your inquiry. However, if you have further questions or if you would like to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

Daniel J. Mullen
Assistant Attorney General

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